IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO :19565 of 2006

DATED: 20-9-2006

Between:

P.Rajender Prasad Reddy petitioner

And

The District Collector,
Krishna District,
At Machilipatnam and others Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 19565 OF 2006

ORAL ORDER:

The writ petition is filed on an apprehension that the respondents would dispossess the petitioner without the authority of law and without following the due process of law. The petitioner and his two major sons constitute a joint family, which owns an extent of Ac.6.80 cents agricultural wet land in Survey Nos. 5 and 6 of Janardhanapuram village, Nandiwada Mandal, Krishna district. The petitioner alleges that on 13.9.2006, respondents 2 and 3 along with their subordinate staff visited their land and started taking measurements of the land. When the petitioner enquired, the respondents informed them that the lands are required for providing house sites for the beneficiaries selected under 'Indira Awas Yojana Scheme'. The petitioner alleges that no proceedings under the Land Acquisition Act, 1894 or any other law have been initiated by the respondents 2 and 3 or their subordinates and that the respondents in gross abuse of the colour of office are criminally trespassing into the petitioner's property to dispossess them.

In respect of such a grievance, of criminal trespass and forcible dispossession without following the substance and due process of law and for causing damage to the petitioner's crop in land as is alleged, the petitioner has a plurality of remedies. The petitioner would be well

within his right to exercise the right of private defence and resist with countervailing and proportionate force any illegal action of criminally trespass or otherwise by any of the respondents notwithstanding that the trespassers are holders of a public office, unless the entry into the petitioner's property is on authority of law and by following the due process of law. The petitioner has also a remedy by way of preferring a complaint to the nearest police station, naming the officer or officers and conveying information as to the commission of a cognisable offence by such named officers. As none of the respondents are immune to the criminal laws of this Republic, on a complaint naming any public officer, including respondents 1 to 3 herein by the petitioner, the concerned police would be bound to register the complaint and to provide adequate sovereign protection to the petitioner, restrain the abuse of public office including by respondents 1 to 3. Any failure of the police in this regard, is actionable by the petitioner by seeking remedies in public law process. The petitioner has yet another remedy of seeking injunctive relief before the Civil Court of competent jurisdiction located in proximity to the petitioner's residence.

In view of the plurality of the remedies available, this Court is not inclined to consider the complaint under Article 226 of the Constitution of India.

The writ petition is dismissed granting the petitioner liberty to pursue any of the available alternative remedies. No costs.

_____

GODA RAGHURAM,J

DATE: 20.9.2006
TVK

-

23

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO :19565 of 2006

DATED: 20-9-2006